IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 122 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GANPATBHAI MAFATLAL PATEL

Versus

THE SPL. LAND ACQ. OFFICER

Appearance:

1. Civil Revision Application No. 122 of 2004

MR AJ PATEL for Petitioner No. 1

MR PUJARI, AGP for Respondent No. 1

MR SN SINHA for Respondent No. 2,2

MR DEVENDRA A PATEL for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/03/2004

ORAL JUDGEMENT

Rule. Mr.Pujari, learned AGP waives service of

rule on behalf of respondent No.1 and Mr.Sinha waives service of Rule on behalf of respondent No.2 .

2) By filing this revision, the petitioner has challenged the order passed by the learned Joint District Judge, and Fifth Fast Track Judge, Mehsana below Exh.1, in Civil Misc.Application 217/2002. By the impugned order, the learned Judge has ordered the payment of 50% of the amount of compensation, which is deposited in Land Acquisition Reference No.1376/1996, to the opponent Ishwarbhai Mafatlal on furnishing security as well as bond for the like amount and rest of 50% amount is ordered to be deposited in the name of Nazir as a Fixed Deposit in a nationalized bank.

3) It is pointed out by both the sides that since the dispute is between two brothers, they have settled their dispute inter se and they have entered into a settlement, which is signed by the petitioner as well as defendant No.2 and as per the same, the family property is divided. The amount of compensation, which is awarded in Land Acquisition Reference is taken care of in the said settlement. It is also submitted that in that view of the matter, the order in qeustion is required to be modified suitably.

4) The petitioner as well as respondent No.2 are present in the Court and they have admitted that the settlement is arrived at between them outside the Court. In that view of the matter, the order passed by the learned Joint District Judge below Exh.1 application is set aside with the consent of the parties and the matter is sent back to the learned Joint District Judge to dispose of Civil Misc.Application No.217/2002 in the light of the settlement arrived at between the parties. The learned Judge may pass appropriate orders, considering the settlement arrived at between the parties and may disposed of Civil Misc.Application No.217/2002 in accordance with law on or before 5th April, 2004. Copy of the settlment arrived at between the parties is kept on record. It is open for the parties to place the original consent terms before the learned Judge, before whom Civil Misc.Application is pending and the learned Judge may consider the same.

4) Accordingly, this revision application is allowed to the aforesaid extent, in view of the consent arrived at between the parties. Rule is made absolute accordingly. No order as to costs.

5) Writ of this Court be sent to the District Court,

Mehsana forthwith. Parties may also take direct service of this order so that the learned Judge may dispose of the application Exh.1 as well as Civil Misc.Application No.217/2002 within the stipulated time.

(P.B.Majmudar,J.)

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